

RECORDING REQUESTED BY:

Mr. and Mrs. Mario Grossi
255 West Avenue L9, Lancaster, CA 93534
Mr. and Mrs. John Calandri
42016 Ivesgrove Drive, Lancaster, CA 93536

DOCUMENT #: 0196087828



0196087828

WHEN RECORDED MAIL TO:

Department of Toxic Substances Control
Fresno District Office
1515 Tollhouse Road
Clovis, CA 93611
Attention: Danny G. Domingo

Fees... 49.00
Taxes...
Other... 10.00
TOTAL PAID... 59.00

Stat. Types: I

COVENANT
TO RESTRICT USE OF PROPERTY
GROSSI AND CALANDRI SITE

This Covenant and Agreement ("Covenant") is made on the JUNE 27 day of JUNE, 1996 by Mr. and Mrs. Mario Grossi, 255 West Avenue L9, Lancaster, CA 93534 and Mr. and Mrs. John Calandri, 42016 Ivesgrove Drive, Lancaster, CA, 93536, ("Covenantor"), who is the owner of record of certain property situated in Rosamond, County of Kern, State of California, described in Exhibit "A" attached hereto and incorporated herein by this reference ("the Property") and by the California Department of Toxic Substances Control, with reference to the following facts:

- A. This property contains hazardous substances. A portion of the Property located approximately in the Southwest Quarter of the South Half of the Property described in Exhibit "A" and shown in Exhibit "B" contains hazardous substances at concentrations posing a potential health risk if uncontrolled.
- B. The release of hazardous substances resulted in the contamination of shallow soils on the Property with lead, copper, and zinc. Soils containing these hazardous substances in excess of the health based remediation goals of 1,000 parts per million (ppm) for lead, 2,500 ppm, for copper, and 5,000 ppm for zinc have been consolidated in an excavated area approximately 65 feet long by 85 feet wide at the surface by 8 feet deep. This area has been covered with a concrete cap measuring approximately 66 feet wide by 86 feet long. This 66 foot by 86 foot area constitutes the "Capped Area" within a portion of the Property shown in Exhibit "B". The purpose of the cap is to eliminate risk posed to human health associated

with ingestion, inhalation and dermal contact with the hazardous substances. The cap also serves to minimize, if not eliminate the potential for movement of the hazardous substances toward groundwater. Lead, the primary hazardous substances of concern found on the Property is an experimental teratogen. Acute health affects of lead are manifested by gastrointestinal colic, encephalopathy and other neurological manifestation, particularly in children. Lead is present in soil contained in the portion of the Property identified in Exhibit "B" at the estimated average concentration of approximately 3,500 ppm.

- C. Covenantor desires and intends that in order to protect the present or future public health and safety, the Property shall be used in such a manner as to avoid potential harm to persons or property which may result from hazardous substances which have been deposited on unspecified portion(s) of the Property.

ARTICLE I

1.01 Provisions to Run With the Land. This Covenant sets forth protective provisions, covenants, restrictions, and conditions, (collectively referred to as "Restrictions"), upon and subject to which the Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. Each and all of the Restrictions shall run with the land, and pass with each and every portion of the Property, and shall apply to and bind the respective successors in interest thereof. Each and all of the Restrictions are imposed upon the entire Property unless expressly stated as applicable to a specific portion of the Property. Each and all of the Restrictions are imposed pursuant to Sections 25355.5 and 25356.1 of the Health and Safety Code and run with the land pursuant to Section 25355.5. Each and all of the Restrictions are enforceable by the Department of Toxic Substances Control.

1.02 Concurrence of Owners Presumed. All purchasers, lessees, or possessors of any portion of the Property shall be deemed by their purchase, leasing, or possession of such Property, to be in accord with the foregoing and to agree for and among themselves, their heirs, successors, and assignees, and the agents, employees, and lessees of such owners, heirs, successors, and assignees, that the Restrictions as herein established must be adhered to for the benefit of future Owners and Occupants and that their interest in the Property shall be subject to the Restrictions contained herein.

1.03 Incorporation Into Deeds and Leases. Covenantor desires and covenants that the Restrictions set out herein shall be incorporated by reference in each and all deeds and leases of any portion of the Property.

ARTICLE II

DEFINITIONS

2.01 Department. "Department" shall mean the California State Department of Toxic Substances Control and shall include its successor agencies, if any.

2.02 Improvements. "Improvements" shall mean all buildings, roads, driveways, regradings, and paved parking areas, constructed or placed upon any portion of the Property.

2.03 Occupants. "Occupants" shall mean those persons entitled by ownership, leasehold, or other legal relationship to the exclusive right to occupy any portion of the Property.

2.04 Owner. "Owner" shall mean the Covenantor or its successors in interest, including heirs, and assigns, who hold title to all or any portion of the Property.

ARTICLE III

DEVELOPMENT, USE, AND CONVEYANCE OF THE PROPERTY

Owner shall restrict the use of the Property as follows:

A. Capped Area.

- (1) The Owner of that portion of the Property which includes the Capped Area shall annually inspect and make necessary repairs to the Capped Area. The purpose is to maintain the cap's integrity as a barrier preventing water infiltration into contaminated soils, the movement of contaminated soils in surface runoff, wind borne transport of contaminated soils and warning sign's effective notice of hazardous substances present in the underlying soils. This work shall be carried out as described in Exhibit "C".
- (2) The Owner of that portion of the Property which includes the Capped Area shall at a minimum collect soil samples at intervals of five, ten, and twenty years following recordation of this Covenant. These samples shall be collected and analyzed as described in Exhibit "C".
- (3) The Owner of that portion of the Property which includes the Capped Area shall not allow any use of or access to the Capped Area, except as necessary for the performance of required operation, maintenance, and monitoring activities, including those specified in Subsections (1) and 2 above without first obtaining written approval from the Department to do so.

- (4) The Owner of that portion of the Property which includes the Capped Area shall not allow any excavation or digging, in or adjacent to, the Capped Area without first obtaining written approval from the Department to do so.

B. Property Excluding the Capped Area.

- (1) Owner shall only use the Property, excluding the Capped Area, for the purposes allowed under the current M-3 zoning, heavy industrial.
- (2) If Owner proposes to use the Property, excluding the Capped Area, for any purpose other than those allowed under the current M-3 zoning, Owner is required to obtain written approval from the Department prior to implement such use.
- (3) Owner shall not conduct any activities on the Property, including the Capped Area, which may cause a potential threat to public health and the environment resulting from the release of hazardous substances contained on the property.
- (4) Owner shall not conduct any activities on the Property, including the Capped Area, which may interfere with any operation, maintenance, or monitoring activities required under this Covenant.

3.02 Conveyance of Property. The Owner or Owners shall provide a thirty (30) days advance notice to the Department of any sale, lease, or other conveyance of the Property or an interest in the Property to a third person. The Department shall not, by reason of the Covenant, have authority to approve, disapprove, or otherwise affect any sale, lease, or other conveyance of the Property except as otherwise provided by law, by administrative order, or by reason of this Covenant.

3.03 Enforcement. Failure of the Owner to comply with any of the requirements, as set forth in paragraph 3.01 shall be grounds for the Department, by reason of the Covenant, to require that the Owner modify or remove any Improvements constructed in violation of that paragraph. Violation of the Covenant shall be grounds for the Department to file civil and criminal actions against the Owner as provided by law.

3.04 Notice in Agreements. All Owners and Occupants shall execute a written instrument which shall accompany all purchase, lease, sublease, or rental agreements relating to the Property. The instrument shall contain the following statement:

"The land described herein contains hazardous substances. Such condition renders the land and the owner, lessee, or other possessor of the land subject to requirements,

restrictions, provisions, and liabilities contained in Chapter 6.5 and Chapter 6.8 of Division 20 of the Health and Safety Code. This statement is not a declaration that a hazard exists".

ARTICLE IV

VARIANCE AND TERMINATION

4.01 Variance. Any Owner or, with the Owner's consent, any Occupant of the Property or any portion thereof may apply to the Department for a written variance from the provisions of this Covenant.

4.02 Termination. Any Owner or, with the Owner's consent, an Occupant of the Property or a portion thereof may apply to the Department for a termination of the Restrictions as they apply to all or any portion of the Property.

4.03 Term. Unless terminated in accordance with paragraph 4.02 above, by law or otherwise, this Covenant shall continue in effect in perpetuity.

ARTICLE V

MISCELLANEOUS

5.01 No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Property or any portion thereof to the general public or for any purposes whatsoever.

5.02 Notices. Whenever any person gives or serves any notice, demand, or other communication with respect to this Covenant, each such notice, demand, or other communication shall be in writing and shall be deemed effective 1) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served or official of a government agency being served, or 2) three (3) business days after deposit in the mail if mailed by United States mail, postage paid certified, return receipt requested:

To: "Covenantor"
Grossi and Calandri Site
Attn: Mr. and Mrs. John Calandri
42016 Ivesgrove Drive
Lancaster, CA 93536

"Covenantor"
Grossi and Calandri Site
Attn: Mr. and Mrs. Mario Grossi
255 West Avenue L9
Lancaster, CA 93534

Copy to: Mr. James L. Tjosvold, P.E., Chief
Central California Cleanup Operations Branch
Attn: Danny G. Domingo
Department of Toxic Substances Control
1515 Tollhouse Road
Clovis, CA 93611

5.03 Partial Invalidity. If any portion of the Restrictions set forth herein or terms is determined to be invalid for any reason, the remaining portion shall remain in full force and effect as if such portion had not been included herein.

5.04 Article Headings. Headings at the beginning of each numbered article of this Covenant are solely for the convenience of the parties and are not a part of the Covenant.

5.05 Recordation. This instrument shall be executed by the Covenantor and by the Director, California Department of Toxic Substances Control. This instrument shall be recorded by the Covenantor in the County of Kern within ten (10) days of the date of execution.

5.06 References. All references to Code sections include successor provisions.

IN WITNESS WHEREOF, the parties execute this Covenant as of the date set forth above.

OWNER

Grossi and Calandri

By: Mario Grossi

Title: Owner

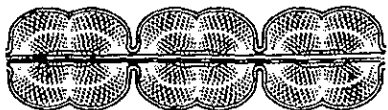
Date: 6-27-96

By: John Calandri

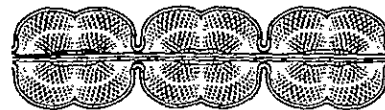
Title: owner

Date: 6-27-96

CALIFORNIA



ALL-PURPOSE



ACKNOWLEDGEMENT

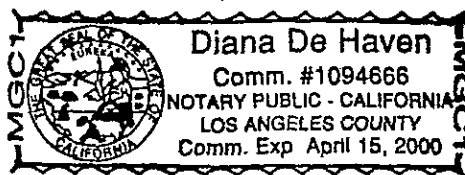
STATE OF CALIFORNIA)

COUNTY OF LOS ANGELES)

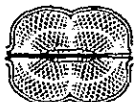
On JUNE 28, 1996 before me, DIANA DEHAVEN, Notary Public,
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared, MARIO GROSSI, JR. and JOHN CALANDRI
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s)
whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/
they executed the same in his/her/their authorized capacity(ies), and that by his/her/their
signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted,
executed the instrument.

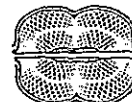
WITNESS my hand and official seal.



Diana De Haven (SEAL)
NOTARY PUBLIC SIGNATURE




OPTIONAL INFORMATION



TITLE OR TYPE OF DOCUMENT COVENANT TO RESTRICT USE OF PROPERTY
GROSSI AND CALANDRI SITE
DATE OF DOCUMENT JUNE 27, 1996 NUMBER OF PAGES -13-
SIGNER(S) OTHER THAN NAMED ABOVE N/A

IN WITNESS WHEREOF, the parties execute this Covenant as of the date set forth above.

DEPARTMENT OF TOXIC SUBSTANCES
CONTROL



By: James L. Tjosvold, P.E.

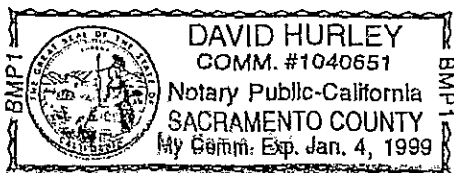
Title: Chief
Central California Cleanup
Operations Branch

Date: June 27, 1996

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO)

On JUNE 27, 1996 before me, the undersigned, a Notary Public in and for said state, personally appeared JAMES L. JOSEPH, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as CHIEF, CENTRAL CA. Cleanup of DANGER of the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same pursuant to its bylaws or a resolution of its board of directors.

WITNESS my hand and official seal.



David Hurley
Notary Public in and for said
County and State

STATE OF CALIFORNIA)
COUNTY OF _____)

On _____, 19____ before me, the undersigned, a Notary Public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as _____, of the Department of Toxic Substances Control, the agency that executed the within instrument, and acknowledged to me that such agency executed the same.

WITNESS my hand and official seal.

Notary Public in and for said
County and State

Exhibit A

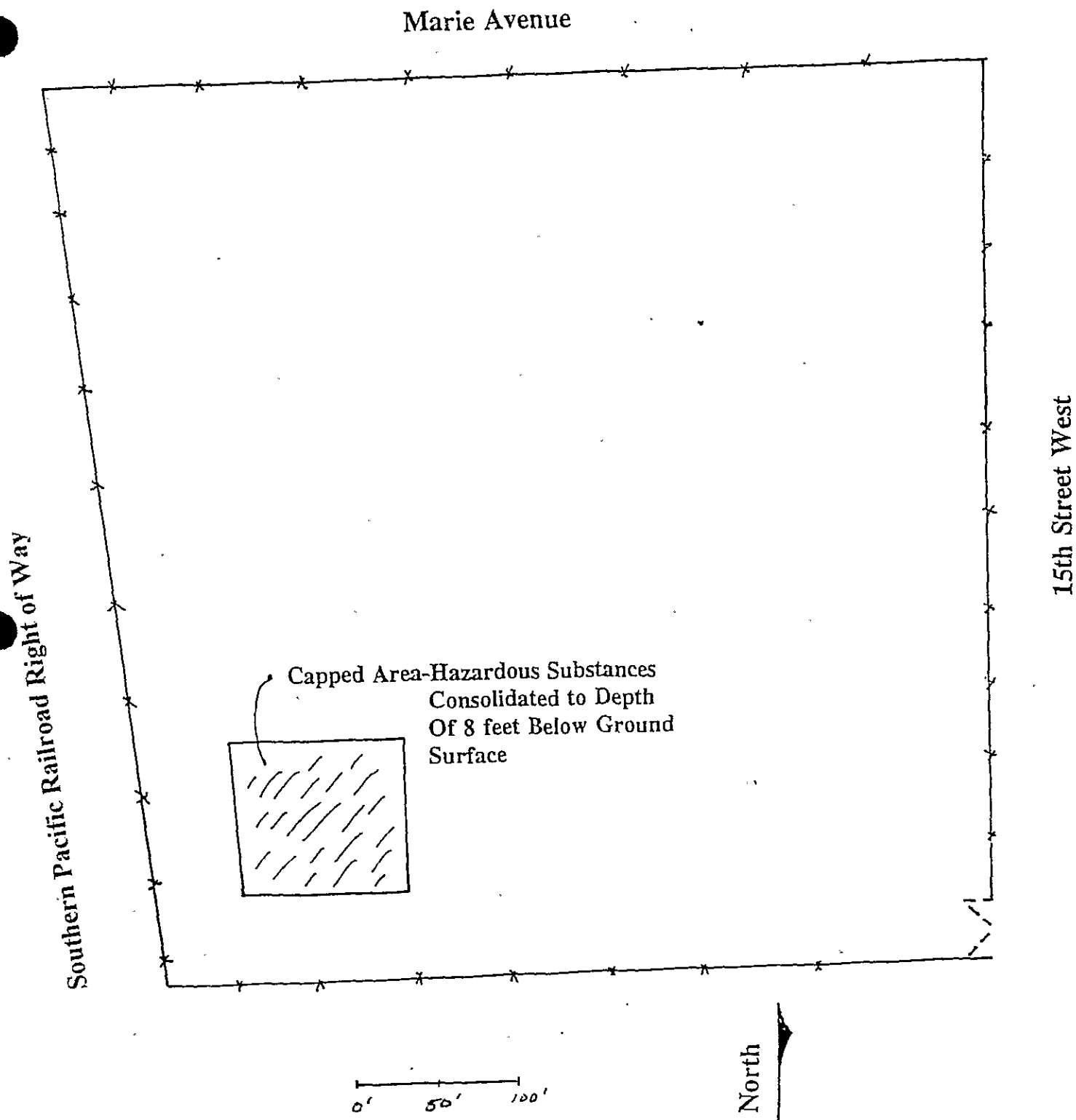
Description of "The Property"
Grossi and Calandri Site
Rosamond, Kern County, California

The Grossi and Calandri Site, referred to in this document as "the Property", consists of one parcel identified by Kern County Assessor's Parcel Number 249-201-28. This parcel consists of approximately 10 acres and is further described as follow:

APN 249-201-28:

The North 1042 feet of that portion of the East half of the East half of the Northwest quarter of Section 28, Township 9 North, Range 12 West, San Bernardino Meridian, in the County of Kern, State of California, according to the official plat thereof, lying East of the Southern Pacific Railroad right of way.

Exhibit B - Grossi and Calandri
Cap Location



Grossi and Calandri Site
15th Street West and Marie Avenue
Rosamond, Kern County, California

EXHIBIT C-1
The Operation and Maintenance Requirements
Grossi Calandri Site, Rosamond, Kern County

The purpose of the Operation and Maintenance Plan (OMP) is to maintain the effectiveness of the cap placed over the effected area identified in the Agreement. The OMP addresses maintenance of the cap through administrative controls, inspection and maintenance schedules and through a long term environmental monitoring.

1.0 Administrative Controls. Respondent shall place Administrative Controls over the effected/capped area. Such administrative controls shall include but are not limited to the following:

A) Respondent shall not allow the construction or placement of building or structure on the cap which is intended for use as any of the following, or the use of an existing structure for the purpose of serving as any of the following without first applying for and receiving a written variance from the Department for that use pursuant to Article IV of this covenant and agreement:

- a. A residence.
- b. A hospital for humans.
- c. A school for persons under 21 years of age.
- d. Any permanently occupied human habitation other than those used for industrial or commercial purposes that are not specifically excluded above.

B) Thirty (30) days after the completion of the cap, Respondent shall place a permanent warning sign which identifies the area specifying the hazardous substances contained beneath and the phone number of the Department.

2.0 Cap Inspections and Inspection Report Respondent shall conduct an annual inspection of the cap to identify cracks and/or potential conditions which may comprise the integrity of the cap. Any cracks discovered during the inspection shall be repaired. Annual inspection shall be conducted by the 15th of January of each year for the life of the cap. Respondent shall submit within ten (10) days of the inspection, a subsequent inspection report summarizing the results of the inspection and detailing any maintenance activity performed.

3.0 Environmental Monitoring. Respondent shall obtain soil samples from beneath the consolidated hazardous substances to determine the effectiveness of the cap. Soil sampling activities shall be conducted at five, ten and twenty years after the

EXHIBIT C-2 - BORING, SAMPLING AND TESTING PLAN

INTRODUCTION

This appendix describes in detail the method to be used for verification monitoring designed to confirm that downward migration of contaminants from the consolidation area is not occurring.

Sampling shall initially be conducted at five, ten and twenty years from the date of site certification. Four samples shall be collected during each sampling event, one from each side of the containment area. These samples shall be collected from at least three feet inside of the downward projection of the outside edge of the bottom of the containment area (i.e. the 86' x 65' bottom area) and shall be collected from a depth as close below the bottom of the containment area as possible (approximately ten feet or less) without penetrating the containment area. The samples shall be analyzed for copper, lead and zinc by a Health Department certified laboratory. The details of the sampling protocol are described herein. The schedule shall be finalized prior to certification of the site in an operation and maintenance agreement to be negotiated between the DTSC and the Grossi and Calandri parties.

BORING EQUIPMENT AND SAMPLING PROCEDURE

Accepted standard suitably licensed boring rigs and operators shall be used for the periodic boring and sampling to insure that migration of the consolidated contaminated soils is not taking place. The boring rig shall be of the rod type utilizing a California modified splitspoon sampling tube with matching sampling sleeves. Sampling sleeves shall be 2 or 2 1/2 inch in diameter. Proper care and washing of the sampling tube and sampling sleeves shall be applied prior to each use to eliminate the possibility of cross-contamination between successive sampling locations and/or samples. The boring rig should be capable of performing slant borings up to about 35 degrees from the vertical to a slant depth of at-least 20 ft below grade.

The borings will be located at the approximate center of each of the four sides of the cap, with the center of the boring approximately five foot from the outer edge of the paving cap. The geometry of the slant bores is depicted in Figure 1 which shows the location of the four bores and a cross section of a typical bore with the range of slant angles-acceptable. As shown in Figure 1, a slant angle of 25 to 27 degrees from the horizontal will provide a sample no less than three feet inside the downward projection of the outer edge of the consolidation area no more than 10 ft below the 8 ft maximum depth of the consolidation area. The engineer- or geologist-in-charge of the boring will compute the geometry as a function of the greatest angle the boring rig can accommodate for sampling, with the slant depth for sampling calculated for the boring angle off the vertical such that the sample is obtained at a depth no more than 10 feet below the bottom of the consolidation

area and no less than three feet inside the projection of the bottom outer edge of the consolidation area. The bore hole will be backfilled with the soil excavated by the boring auger upon completion of the sampling operation at each bore. A suitable boring log will be prepared by the qualified engineer or geologist-in-charge indicating the characteristics of the soil encountered, slant angle, slant and vertical depth of the sample and such other pertinent information appropriate.

Upon removal from the sampling tube, the first sample sleeve will be immediately covered with chemically clean caps, sealed and transported to a state certified laboratory for testing for lead, copper and zinc. An approved chain-of-custody form will be used for transfer and reception of the samples by the laboratory. The laboratory report will be certified by a licensed chemist in charge of the laboratory. A complete report of the sampling and testing including test results report and chain-of-custody copy shall be provided to DTSC as soon as possible.

area and no less than three feet inside the projection of the bottom outer edge of the consolidation area. The bore hole will be backfilled with the soil excavated by the boring auger upon completion of the sampling operation at each bore. A suitable boring log will be prepared by the qualified engineer or geologist-in-charge indicating the characteristics of the soil encountered, slant angle, slant and vertical depth of the sample and such other pertinent information appropriate.

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